

MEMORANDUM

January 4, 2007

TO: County Council

FROM: Charles H. Sherer, Legislative Analyst

SUBJECT: County taxes

Background During the discussion of spending affordability guidelines for the FY08 operating budget, the MFP Committee asked Council staff to provide a description of County taxes, the amount of each tax, and whether the Council can change the rates. Councilmembers could use this information in the spring, when they have the opportunity to propose changes in County tax rates.

1. **Property tax** Finance estimates that FY08 property tax for the so-called tax-supported funds will be:
 - a. \$1.357 billion at current rates
 - b. \$1.209 billion at the Charter limit if the limit is achieved entirely by a credit, which goes to the owners of residential property for the residence they occupy as their principal residence in Montgomery County
 - c. \$1.198 billion at the Charter limit if the limit is achieved entirely by reducing the rates

There is no limit on the property tax rates, but there is one constraint: at least seven Councilmembers must approve the rates for the **next** fiscal year if the rates are projected to result in property tax revenue on existing real property that exceeds the property tax revenue in the **current** fiscal year by more than the rate of inflation.

Neither governments nor non-profit organizations pay this tax. Residential tax payers pay roughly 70% of the total property tax and non-residential tax payers pay the remaining 30%.

2. **Income tax** Finance estimates that FY08 income tax will be \$1.2365 billion. This tax is on individual income, not business income. The Council has set this rate at the maximum permitted by the State, which is 3.2% of Maryland Taxable Income.
3. **Transfer tax** The tax is collected when the title of real property is transferred from one owner to another. Finance estimates that FY08 transfer tax will be \$120.8 million. Scott Foncannon from the County Attorney's office notes that State law does **not** give counties permission to change these rates. Therefore, the County would have to ask the State to pass a bill to permit the County to change the rates. The County could ask the State to give counties permission

to set the rates any time and at any level without needing a change in State law each time a county wants to change the rates. The rate varies with the type of property being transferred, but is 1% for most property.

4. **Recordation tax** The tax is collected on certain transactions which must be recorded in the records of the court. In FY02 and in prior years, this rate was \$4.40 per \$1,000. Effective in FY03, the Council increased the rate to \$6.90 per \$1,000, but exempted the first \$50,000 in value for an owner-occupied residence, and specified that the increased revenue from this change **must** be used for "...capital improvements to schools and educational technology for Montgomery College..." Since the increased revenue from this change is no longer available for any other uses, the increased revenue is **not** shown as revenue available for the operating budget.

Finance estimates that FY08 recordation tax will be:

\$72.5 million for the operating budget (this is the amount that would have been collected from the old rate)

\$32.8 million for the capital budget (this is the increased revenue resulting from the increased rate, slightly reduced by the exemption)

There is no limit on this rate.

5. **Fuel/energy tax** The tax is levied on sellers of energy and is based on the quantity, not the price, of six types of energy and energy-producing substances. The non-residential rate is 2.65 times the residential rate. Residential users pay roughly 28% of the total. The sellers include this tax in the bills they send to their customers, so governments and non-profit organizations pay the tax indirectly. Finance estimates that FY08 energy tax will be \$120.9 million.

In 2003, the Council increased the rates 200% starting in FY04 and in 2004 the Council increased the rates an additional 52.15% starting in FY05. If a resident paid \$20 in FY03, the resident paid \$60 in FY04 and roughly \$91 in FY05. The FY05 tax was 4.56 times the FY03 tax.

There is no limit on these rates.

6. **Admissions and amusements tax** Somewhat paradoxically, the smallest tax has the longest description. State law permits counties to impose a tax on gross receipts from admissions and amusement activities as defined by the State. The tax is paid by individuals to business establishments providing such activities, the State collects the tax from these establishments, and the State distributes the proceeds to the counties after deducting an administrative charge, which was 2.4% in FY03.

The State permits counties to set the tax rate by resolution and limits the tax rate to 10%, with certain limitations and exemptions. (One limitation applies to activities which are also subject to the state sales and use tax. For these activities, the sum of the two taxes cannot exceed 10%.) The rate is specified in the County Code at 7%.

In May 2004, the Council approved an increase in the rate from 7% to 10%. Finance estimated that the admissions and amusement tax in FY05 would be \$3.270 million. If the rate were

increased from 7% to 10%, Council staff estimated that this tax would be \$4.517 million, which was \$1.247 million/ 38% more in FY05. However, the Executive vetoed the increase and the Council failed to override the veto (4-5).

Finance estimates that FY08 admissions tax will be \$2.490 million. If an increase in the rate from 7% to 10% would again increase the total by 38%, the amount of increase would be \$946,000.

7. **Hotel/motel tax (Room rental and transient tax)** Finance estimates that FY08 hotel/motel tax will be \$18.4 million. This tax is 7 % of the total amount paid for the room rental. There is no limit on this rate.
8. **Telephone tax** Finance estimates that FY08 telephone tax will be \$30.43 million. The tax is \$2 per month for each wired and each wireless line. There is no limit on this tax.

SUMMARY of FY08 projected revenues

Revenue	\$millions	% of Total
Income Tax	\$1,236.5	34.6%
Property Tax	1,197.9	33.5%
General State, Federal, Other Aid	601.7	16.8%
All Other Revenue	174.9	4.9%
Energy Tax	120.9	3.4%
Transfer Tax	120.8	3.4%
Recordation Tax	72.5	2.0%
Telephone Tax	30.4	0.8%
Hotel/motel Tax	18.4	0.5%
Admissions and Amusements Tax	2.5	0.1%
Total Revenue	\$3,576.5	100.0%